

# Corporal punishment of children in Benin

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Child population 5,312,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

**Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.**

## Prohibition of corporal punishment

### Home

Corporal punishment is unlawful in the home. The Children's Code 2015 (Loi No. 2015-08 portant code de l'enfant en République du Bénin) states in article 39 (unofficial translation): "Parents or other persons legally responsible for a child will ensure that discipline is enforced in such a way as to ensure that it is treated with humanity and with respect for its human dignity. If necessary, they may punish the child. In no case may the punishment constitute a violation of the child's physical integrity or torture or inhuman or degrading treatment. Any punishment must be education in intent and accompanied by an explanation." Article 130 states: "The State shall ensure that discipline within the family, at school and in other public or private institutions does not involve corporal punishment or any other form of cruel or degrading treatment."

The Government reported to the Committee on the Rights of the Child in 2016 that corporal punishment is punishable under the Criminal Code (art. 312), regardless of whether the offence results in bodily injury.<sup>1</sup> A new Criminal Code was reportedly adopted in June 2018 (Loi No. 2018-15 portant Code pénal)<sup>2</sup> but we have been unable to obtain a copy of the text.

### Alternative care settings

Corporal punishment is unlawful in all alternative care settings under articles 39 and 130 of the Children's Code 2015 (see under "Home"). In addition, article 220 of the Code confirms that corporal punishment of children "in care" is prohibited (unofficial translation): "Any form of corporal punishment or other violence to children "in care" is forbidden, on pain of criminal penalty."

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<sup>1</sup> 20 January 2015, CRC/C/BEN/3-5, Third-fifth state party report, para. 143

<sup>2</sup> See "Adoption de la loi 2018-15 portant Code pénal en République du Bénin", at

<https://www.benin24television.com/adoption-de-la-loi-2018-15-portant-code-penal-en-republique-du-benin-lassemblee-donne-les-armes-a-toboula-pour-controler-les-manifestations/>, accessed 26 October 2018

## **Day care**

Corporal punishment is unlawful in all early childhood care and in day care for older children under articles 39 and 130 of the Children’s Code 2015 (see under “Home”). In addition, article 119 of the Code reiterates the prohibition in relation to educational childcare facilities (unofficial translation): “All forms of corporal punishment are prohibited in schools, professional learning centres and childcare facilities.”

## **Schools**

Corporal punishment is unlawful in schools under articles 39, 119 and 130 of the Children’s Code 2015 (see under “Home” and “Day care” above). Educational programmes are implemented in schools aimed at eliminating the use of corporal punishment, including in the context of the “Fundamental quality school” framework initiated in 2008.<sup>3</sup> The Ministry of Preschool and Primary Education, in cooperation with UNICEF and Plan International Benin, also carried out awareness raising and education as part of the “Learn without fear” campaign.<sup>4</sup>

Prior to the 2015 reform, Ministerial Circulars No. 100/MENC 1962 and No. 1264/MENCJ 1981 had stated that corporal punishment should not be used in schools, but there was no prohibition in law. Law No. 2003-17 on the orientation of national education is silent on the issue, stating only that the obligations of pupils and students cover all aspects of their studies, including discipline and compliance with rules (art. 56).

## **Penal institutions**

Corporal punishment is unlawful as a disciplinary measure in penal institutions under article 130 of the Children’s Code 2015 (see under “Home”).

## **Sentence for crime**

Corporal punishment is unlawful as a sentence for crime. Children in conflict with the law are dealt with by juvenile courts established under Ordinance No.69-23/PR/MJL 1969: the Ordinance does not provide for judicial corporal punishment, nor does the Criminal Code or the Code of Criminal Procedure 2012. The Constitution prohibits torture or other cruel, inhuman or degrading treatment or punishment (art. 19).

## **Universal Periodic Review of Benin’s human rights record**

Benin was examined in the first cycle of the Universal Periodic Review in 2008 (session 2). No recommendations were made concerning corporal punishment of children.

Examination in the second cycle took place in 2012 (session 14). During the review the following recommendations were made and were accepted by the Government:<sup>5</sup>

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<sup>3</sup> 20 January 2015, CRC/C/BEN/3-5, Third-fifth state party report, paras. 305, 306, 307 and 308

<sup>4</sup> 20 January 2015, CRC/C/BEN/3-5, Third-fifth state party report, para. 311

<sup>5</sup> 11 December 2012, A/HRC/22/9, Report of the working group, paras. 108(67), 108(68) and 108(69)

“Explicitly prohibit all corporal punishment of children in all settings, including at home and in schools, in the context of adopting the new Children’s Code, and promote alternative forms of discipline (Liechtenstein);

“Revise its legislation to prohibit and sanction corporal punishment imposed on children at home and in schools and step up its efforts on raising awareness about the negative effects of this practice (Mexico);

“Adopt additional measures, including legislative ones, to eradicate the practice of deliberate exploitation of children and the use of corporal punishment against children (Belarus)”

The third cycle examination took place in 2017 (session 28). The following recommendations were made and supported by the Government:<sup>6</sup>

“Take practical measures to ensure the full and proper implementation of the Children’s Act, as recommended by the Committee on the Rights of the Child in 2016 (United Kingdom of Great Britain and Northern Ireland);

“Ensure the effective implementation of the Children’s Code with a view to protect the rights of this vulnerable group (Belgium)”

“Fast-track the implementation of the Children’s Code in order to curb harmful practices against children, including child, early and forced marriages, the sale of children and the killing of so-called “sorcerer’s children” (Namibia)”

## **Recommendations by human rights treaty bodies**

### ***Committee on the Rights of the Child***

(29 January 2016, CRC/C/BEN/CO/3-5 Advance Unedited Version, Concluding observations on third-fifth state party report, paras. 34, 35, 60, 61, 68 and 69)

“While the Penal Code and the Children’s Act prohibit corporal punishment, the Committee is concerned that corporal punishment continues to be considered an acceptable way of disciplining children. It is further concerned that few students, teachers and other staff members have knowledge of the legal ban on corporal punishment, legislation on sexual harassment, and have access to information on respect for children’s rights.

“In the light of its general comment No. 8 (2006) on corporal punishment, the Committee urges the State Party to implement both the Penal Code and the Children’s Act as a matter of priority. The Committee further recommends that the State Party ensure a large dissemination of the legislation prohibiting corporal punishment, especially in public and private schools and vocational training structures, and also ensure that an educational program be developed against corporal punishment, and for the promotion within the society, of positive, non-violent and participatory forms of child-rearing and discipline.

“While commending the State party’s efforts in education, in particular in terms of numbers of children attending school, the Committee is concerned at the insufficient budget allocations for primary and secondary education. It is concerned at the high illiteracy rate in the State Party, the large number of dropouts, in particular among girls, the low transition rate to secondary education, and at problems of violence and sexual harassment in schools....

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<sup>6</sup> 3 January 2018, A/HRC/37/10, Report of the working group, paras. 118(150), 118(151) and 118(153)

“The Committee recommends that the State Party, in the light of its general comment No. 1 (2001) on the aims of education: ...

c) take preventive measures against corporal punishment, violence and sexual harassment in schools....

“While noting with satisfaction the provisions of the Children's Act to restrict the periods of retention at the police station and the duration of pre-trial detention, and the two pilot child friendly courts established in the jurisdictions of Abomey-Calavi and Abomey, the Committee is concerned about inhumane and degrading detention conditions for juveniles, especially in the Abomey-Calavi prison, and at a number of practices contradicting the Convention, including: children without a lawyer undergoing long periods of preventive detention; no separation of children from adults in detention; long periods of confinement, especially at night, in cells that are often overcrowded; in some cases more than 12 hours of incarceration; use of physical and psychological violence, including the use of force, threats and corporal punishment, especially at the time of arrest; and use of containment cells....

“In light of its general comment No. 10 (2007) on children’s rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. In particular, the Committee urges the State party: ...

c) Investigate all allegations of torture or ill-treatment, prosecute and punish law enforcement officers responsible for such abuses against children deprived of liberty....”

### ***Committee on the Rights of the Child***

(20 October 2006, CRC/C/BEN/CO/2, Concluding observations on second report, paras. 9, 39, 40, 41 and 62)

“The Committee welcomes the measures taken to strengthen the legal framework on the rights of the child and to bring the national legislation into conformity with the Convention, notably the Persons and Family Code and the draft Children’s Code. However, the Committee notes that the national legislation in some areas, inter alia corporal punishment, has still not been brought into full conformity with the Convention.

“The Committee notes with particular concern that corporal punishment is lawful in the home and institutions. Although measures are being taken to address this issue in the context of disciplinary measures in schools, the Committee is concerned that corporal punishment in schools is not prohibited by law and that corporal punishment is widespread throughout society as a method of discipline, due to the generally tolerant attitude towards this practice.

“The Committee recommends that the State party:

a) explicitly prohibit corporal punishment by law in the family, schools and institutions and implement existing prohibitions;

b) conduct a comprehensive study to assess the causes, nature and extent of corporal punishment as well as an evaluation of the impact of measures undertaken so far by the State party to reduce and eliminate corporal punishment;

c) introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and education;

d) ensure that an educational programme be undertaken against corporal punishment, insisting both on the child rights and psychological aspects; and

e) ensure recovery and social reintegration of victims of corporal punishment.

“The Committee draws the attention of the State party to the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8).

“In light of articles 28 and 29 of the Convention and taking into account the Committee general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party continue to allocate adequate financial, human and technical resources in order to:

c) take actions to prevent corporal punishment, sexual violence and harassment in schools.”

### ***Committee on the Rights of the Child***

(12 August 1999, CRC/C/15/Add.106, Concluding observations on initial report, para. 19)

“While the Committee is aware that corporal punishment is prohibited by law in schools, it remains concerned that traditional societal attitudes continue to encourage the use of such punishment within the family, schools, the care and juvenile justice systems and generally within society. The Committee recommends that the State party reinforce measures to raise awareness of the negative effects of corporal punishment and ensure that discipline in families, schools and all institutions is administered in a manner consistent with the child’s dignity and in conformity with the Convention.”

### ***Committee Against Torture***

(19 February 2008, CAT/C/BEN/CO/2, Concluding observations on second report, para. 23)

“While noting that the State party’s legislation prohibits corporal punishment in schools (Circular No. 100/MEN/CAB of 1962), the Committee remains concerned about the absence of legislation prohibiting such punishment in the family and in institutions other than schools. The Committee is also concerned at the frequent use of this practice in education in Benin (art. 16).

The State party should extend legislation prohibiting corporal punishment to the family and to institutions other than schools. The State party should ensure that legislation prohibiting corporal punishment is strictly enforced and awareness-raising and educational campaigns should be conducted to that effect.”

### ***Subcommittee on Prevention of Torture***

(15 March 2011, CAT/OP/BEN/1, Report on first periodic visit, paras. 108, 247, 248, 249 and 250)

“The adolescent detainee [at the *Gendarmerie in Séhoué*] also said that he had been threatened by one of the gendarmes and that he had been told that, although he would be released later that day, he would be beaten first to teach him a lesson....

“The delegation was gravely concerned to learn of the inclusion of *corporal punishment* among the penalties imposed by prisoners on other prisoners. At Abomey Prison male detainees reported that punishment could include beatings on the palms of the hands by other prisoners.

“At Abomey Prison, even the male adolescent detainees held in a separate unit frankly explained the number of blows with a wooden stick meted out to adolescent detainees for various types of

misconduct. The adolescent detainee elected by the others as chief (*chef de sécurité*) was the most important and slept under the canopy in the yard. He explained the process:

- If one of the adolescent detainees did not follow the rules, he beat him on the hands with a wooden stick measuring 37 cm: a first offence merited four strokes, and a repeat offence, ten strokes
- If there was a fight between adolescent detainees, the chief adolescent detainee listened to them both; both were beaten, but the one deemed more culpable had ten strokes and the other five
- To date the adolescent detainees had not referred any disciplinary matter to the director, but had settled all such matters themselves
- No adolescent detainee had ever been placed in a disciplinary cell

“They did not see anything wrong with this use of corporal punishment, which reflected the general culture in the prison.

“The SPT considers that any corporal punishment is unacceptable and constitutes inhuman and degrading treatment. The SPT recommends that the prohibition of corporal punishment be enshrined in law and that corporal punishment of any kind should never be allowed in practice.”

## **Prevalence/attitudinal research in the last ten years**

Research conducted in 2014 as part of UNICEF’s Multiple Indicator Cluster Surveys (MICS) programme, found on average 91% of 1-14 year-old children experienced some form of violent discipline (psychological aggression and/or physical punishment) in the month prior to the survey. On average 87% of children experienced psychological aggression, 52% physical punishment and 23% severe physical punishment (hit or slapped on the face, head or ears, or hit repeatedly). Only 4% of children experienced only non-violent forms of discipline.

(Institut National de la Statistique et de l’Analyse Economique (INSAE) (2015), *Enquête par grappes à indicateurs multiples (MICS), 2014, Résultats clés*, Cotonou, Bénin: Institut National de la Statistique et de l’Analyse Economique)

A 2012 assessment of alternative care in Benin found that there were persistent reports of children in alternative care institutions being physically punished.

(SOS Children’s Villages International (2012), *A Snapshot of Alternative Care Arrangements in Benin*)

A 2009 study involving interviews with girls aged 6-14 and the mothers of girls aged 2-5 and a survey of 4,649 women and 1,550 men found that corporal punishment at home and in schools was very common and that 88.5% of 2-5 year old girls, 88% of 5-9 year old girls and 87.7% of girls aged 10-14 had been beaten. When asked about the reasons for violence, 85.5% of interviewees said it was for “education”. Half of interviewees said that violence to girls resulted in “submission”, 32.9% “scars on the body”, 9.9% “timidity” and 1.7% “death”.

(Ministère de la Famille et de la Solidarité National (2009), *Les Violences Faites aux Femmes au Bénin*)